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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/687,226

10/15/2003

Gregory B. Hale

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07/13/2005

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EXAMINER

FISCHEITTI, JOSEPH A

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/687,226

Applicant(s)

HALE ET AL.

Examiner

Joseph A. Fischetti

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 17 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/15/03 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

10-687,226

Election/Restrictions

Claims 17, 18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 4/19/05.

Applicant's arguments are deemed moot as he has characterized inventions I and II as species, which fundamentally is a different from independent and distinct inventions. The restriction is hereby made FINAL.

Drawings

The drawings are objected to because boxes are left blank without wording see figs 1-3, 8. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

10. 687,226

renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11,12,14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 11, there is no antecedent basis for "the levels of the hierarchy of patrons". Claim 12 the term essentially is relative and needs to be deleted.

Claim 14, no antecedent basis exists for "the priority" line 2. Also, "the mix ratio of numbers is confusing". Claim 14 there is no antecedent basis for "the priority access" nor for "the mix ratio".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

10-687,226

all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, 12,13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mahoney in view of Decker.

Mahoney discloses a. permitting application through an entry of an allocation of a space (see Fig. 1 area 66) on the first attraction using those who are in que 70 (FIFO) and allocated times 52/62/64 including the steps of:

receiving an input from a remote location (television set generates input); the input being effected through a control device 42, selectively a digital television having a control device for operating the television, the input being communicated to a central computer 16 for regulating the load of the first attraction (computer 16 is a line waiting management computer); ii. permitting receiving of a response remotely about the available return times for the first attraction (see col. 4, line 12, host computer relays time availability information -read as a return time- to device 42) ; and iii. permitting the patron to effect a choice of a selected available return time the patron makes his desired selections col. 4 line 18); and b. employing an operation 64/68 at the attraction to provide access to the first attraction.

However, Mahoney fails to disclose using a television in association with the input device 42. However, Decker does disclose using a television to order items remotely off a television located in the room of the patron. It would be obvious to modify the method of Mahoney to include remote television ordering feature of Decker the motivation being elimination of the need to be present to get a ticket and a walk up and use feature.

Re claim 2,3,4, the hotel room is reads as the patron room and the since the hotel room is located remotely of the entertainment environment all patrons are deemed of priority. The motivation as set forth above is herein repeated.

• 10-687,226

Re claim 5: note that Decker bases times on the number of people in que 70 which people are read as being in the environment. The motivation as set forth above is herein repeated.

Re claims 6, 7 and 8: see col. 12 lines 45 et seq. describing multiple different merchants to chose from. The motivation as set forth above is herein repeated.

Re claims 9,10: the selected patron is read as the hotel guest who are selected patrons over those who are on the premises but not guests. The motivation as set forth above is herein repeated.

Re claims 12/13: Official notice is taken regarding the use of magnetically code plastic keys used to open doors in a hotel. As such the holder of such a key is deemed to be prioritized over those not having one in that they have access to the ordering system and priority is redeemed when the holder opens the door to the hotel room. The motivation as set forth above is herein repeated.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mahoney in view of Decker as applied above, and further in view of Christie. The proposed combination fails to disclose a prioritization of access. However, Christie teaches that access to a given asset can be controlled by a given privilege level assigned to different users. It would be obvious to modify the proposed combination to

10-687,226

4

include tiered access feature of Christie because the motivation for this would be to reward those who use the system most with the greatest access. The ration of use is deemed to be unity in Mahoney. The exchange and or nonuse of an item for credit is deemed an old expedient in the art, official notice is taken thereof.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Joseph A. Fischetti at telephone number (703) 305-0731.

Joseph A. Fischetti
Primary Examiner
Art Unit 3627


JOSEPH A. FISCHETTI
PRIMARY EXAMINER